

## **Chapter 236 Nonconforming Uses and Structures**

(3254-10/94, 3378-2/98, 3528A-2/02, 3679-12/04)

### **Sections:**

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236.04	Destruction of a Nonconforming Structure or Use.
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### **236.02 General Provisions**

- A. A nonconforming structure or use shall not be enlarged, increased or intensified except as provided in this chapter. If any such use ceases, the subsequent use of such land, structure or building site shall be in conformance with the regulations specified by this code. (3254-10/94)
- B. A nonconforming use shall not be resumed, reestablished, or reopened after it has been abandoned, discontinued or changed to a conforming use. (3254-10/94)
- C. A nonconforming use shall be deemed to be discontinued or abandoned when such use has ceased to operate or to exist for a period of six (6) months. (3254-10/94)
- D. A nonconforming use which is not housed in any structure, but occupies a lot or portion of a lot, shall not be enlarged or extended to any other portion of the lot or any other lot not so occupied at the time the use became classified as nonconforming. (3254-10/94)
- E. A nonconforming use occupying either a conforming structure or nonconforming structure or portion thereof shall not be extended to any portion of the structure not so occupied at the time the use became nonconforming. (3254-10/94)

### **236.04 Destruction of a Nonconforming Structure or Use**

These provisions shall govern reconstruction of the nonconforming structures and/or uses listed below after such structure or use is destroyed by fire, explosion, act of nature or act of the public enemy by the percentage of value specified. (3254-10/94)

- A. Nonconforming structures and nonconforming uses destroyed 50% or less of the value prior to damage may be completely rebuilt. (3254-10/94)
- B. Nonconforming residential uses consisting of 10 or less units destroyed more than 50% of the value may be completely rebuilt. (3254-10/94)

- C. Nonconforming residential uses consisting of more than 10 units destroyed more than 50% of the value may be completely rebuilt subject to conditional use permit approval by the Planning Commission provided current requirements for setback and parking are met. (3254-10/94)

## **236.06      Alterations to a Nonconforming Structure or Use**

- A. Interior alterations and/or repairs may be made which do not enlarge the square footage or increase the height of a nonconforming use. Reroofing for health and safety purposes may also be permitted. (3254-10/94)
- B. A structure for a nonconforming use shall not be enlarged or altered on the exterior in any manner unless: (3254-10/94)
  - 1. All aspects of the existing structure and the proposed addition are made to conform to applicable provisions of this Code, or (3254-10/94)
  - 2. The Director permits such alteration subject to Neighborhood Notification pursuant to Chapter 241 and the following findings: (3254-10/94, 3528A-2/02, 3679-12/04)
    - a. That the alteration is necessary to secure added safety or reduce the fire hazard or to improve the aesthetic appearance of the structure's architecture by bringing the design into greater conformance with the surrounding neighborhood. (3254-10/94)
    - b. That the alteration or addition will not increase the number of stories. (3254-10/94)
    - c. That the alterations will not cause the floor area to exceed more than ten (10%) percent of the floor area the structure contained at the time the use became nonconforming. (3254-10/94)
- C. Nonconforming structures may be altered or enlarged provided that the alteration or enlargement is in conformance with applicable provisions of Titles 21 and 22. (3254-10/94)
- D. Additions to nonconforming structures proposed to be constructed at the existing nonconforming yard setbacks shall be subject to Director approval and Neighborhood Notification pursuant to Chapter 241. (3254-10/94, 3679-12/04)
- E. The area of enlargement to a nonconforming structure in any five year period shall not exceed 50% of the area of the structure as it exists on the effective date of this ordinance. (3254-10/94)

## **236.08 Sex Oriented Businesses**

- A. Any sex oriented business lawfully operating on the effective date of the Ordinance No. 3378 that is in violation of Section 212.04 of this Code shall be deemed a nonconforming use. A nonconforming use will be permitted to continue for a period of three years with possible one year extensions (maximum extensions of five (5) years) to be granted by the Planning Commission only upon a convincing showing by the applicant of extreme financial hardship which is defined as the recovery of the initial financial investment in the nonconforming use, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sex oriented businesses are within 750 feet of one another and otherwise in a permissible location, the sex oriented business which was first established and continually operating at the particular location is the conforming use and the later established business(es) is nonconforming. (3378-2/98)
- B. A sex oriented business lawfully operating as conforming use is not rendered a nonconforming use by the location, subsequent to the grant of a sex oriented business zoning permit, of a building used for religious assembly, school, park and recreational facility or any property zoned RL, RM, RMH, RH, RMP, and any properties with equivalent designations under any specific plan within five hundred feet (500') of the sex oriented business. (3378-2/98)
- C. Any application for a building permit to operate a sex oriented business in a location that is in violation of Section 212.04 that is filed prior to, but approved after the effective date of Ordinance No. 3378 shall be deemed a nonconforming use pursuant to Section A. Any such building permit shall be in effect subject to the applicable zoning regulations in effect prior to the effective date of Ordinance No. 3378. (3378-2/98)